

REMARKS:

The applicant has cancelled claims 1-37 in proposed Amendment B which were rejected in the prior Office Action. These cancelled claims have been replaced by claims 38-49, which particularly point out and distinctly claim the subject matter which the applicant regards as the invention and are directed to the original disclosure. The invention has been claimed as a business process method and as a educational game system.

The Rejection of Claims 26-37 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory matter.

The applicant requests reconsideration of substitute claims 38-49 and withdrawal of this objection, on the basis of the following assertions.

The substitute claims have been re-written to include concrete structure and be tangible to the data processing and communicating network platform. The claims' usefulness have been reinforced by whereby clauses in claims 38 and 44.

The Rejection of Claims 26-37 under 35 U.S.C. 6103(a)

As being unpatentable over Qian et al. (6,616,529) in view of Sparks, II (6,352,479).

The applicant requests reconsideration of re-written claims 38-49 and withdrawal of this objection, on the basis of the following assertions:

Cited Prior Art is vague and should be construed narrowly
Qian teaches a method for manually extracting semantic events by humans, however, it is not part of the game metaphor as in Campaigne. Qian's "human data gatherers" enter data into a database as a background maintenance function. Since little is said about the organization and management of Qian's human data gatherers, it must be assumed that they are under centralized control for training and organization and that their motivation to perform their function is monetary compensation.

Campaigne has a different mode of operation than Qian et al and Sparks II

Qian's preferred embodiment synthesizes an imaginary sporting event by predicting hypothetical events using a probabilistic inferential technique which does not anticipate the characteristics which are embodied in Campaigne's reporting of real contests. Campaigne distinguishes over Qian by anticipating large numbers of untrained REPORTERS who will self-organize and self-train by playing Campaigne's game.

Campaigne also distinguishes over Qian by relying on redundant reports by self-motivated reporters to create a higher likelihood of complete coverage of reported data and to filter out erratic data. Qian's human data gatherers need an external incentive which makes Qian treat his human data gatherers as a scarce commodity to be conserved because of incurred training, management and compensation expenses. Campaigne's reporters are not a scarce resource because it relies on untrained volunteers who are self-motivated and require no monetary compensation.

Sparks II's players are part of the game metaphor however, its players compete against one another creating a competitive player interaction unlike the cooperation and team work of Campaigne's REPORTERS. Sparks II's players' playing options are limited by a centralized control (Sparks II 1:10-11, 1-45-49, 9:14-17) while Campaigne's REPORTERS have freedom of choice. Campaigne teaches teamwork among REPORTERS, Sparks II teaches competition between individual game players (Sparks II 1:37-44).

Campaigne contains different Elements

Qian's human data gatherers require organization and skills training by a controlling entity. Campaigne's reporters are collectively self-organized and self-trained, thereby eliminating the management control function and significant cost from the reporting method.

Sparks II's game players compete against each other, and it includes centralized management (Sparks II, 310 FIG.11A) which imposes qualifying exclusionary limits on the choices available to its players, while Campaigne's REPORTERS cooperate as a team and make choices in a decentralized

manner (Sign-up Mechanism 300), and are not excluded from choosing any reporting activity based on skill or experience as in Sparks II and Qian.

Campaigne Produces New and Unexpected Results

Prior art research declares, "Social Structures that take advantage of our inherent, self-organizing social dynamics will be best enabled to cope with our increasingly complex world."¹ Campaigne harnesses this useful self-organizing social dynamic (Claim 38d) to provide new and unexpected results. Campaigne enables anyone to join a community of interested reporters and begin to identify and report the critical few team-member actions and collaborations that are causal to winning a contest. Campaigne's REPORTERS learn to be better reporters by learning the underlying factors that contribute to winning; how teams achieve a goal while having only partial understanding of how to do so; and also how to cooperate within their own self-organized group of REPORTERS. Campaigne distinguishes over Qian and Sparks II by these unexpected results and extending these unexpected results to situations that are complex in nature and where the accelerated or protracted pace of activity of team competitions made these results unattainable before Campaigne. In addition, Campaigne produces the unexpected result where Campaigne's reporters work essentially for free, because their only compensation

¹ Proceedings of the 6th International Conference on Artificial Life, at University of California at Los Angeles, June 26-29, 1998; "Symbiotic Intelligence: Self-Organizing Knowledge on Distributed Networks Driven by Human Interaction", p.404.

is "skill reputation" and they organize and train themselves. Qian does not anticipate that the game metaphor and desire for the collective reports can create self-motivated reporters willing to self-organize and self-train and thereby provide the centralized benefit of reduced operating costs.

In addition, Campaigne achieves the unexpected result of indirectly integrating the REPORTER into the CONTEST being reported via Campaigne's means for providing immediate feedback to PLAYERS. Through Campaigne's self-managing feature REPORTERS also learn to cooperate with fellow REPORTERS. If they don't cooperate to collectively provide complete coverage, they learn that the reporting results will be incomplete and all REPORTERS will suffer the loss of complete information which they seek.

Campaigne's innovative design allows for mass use over the internet, wireless, television and other data communication networks. An unexpected result is the large number of people who, by Campaigne are becoming enlightened with greater understanding of how they can solve complex problems as team members.

Campaigne Solves Unrecognized Problem

Before Campaigne, the complex nature and the accelerated or protracted pace of activity of many team competitions made it impractical for one or more reporters to identify the critical few team-member actions and collaborations that are causal to winning the contest. Consequently, reporting was subjective and inconsistent and the critical few team-member actions and collaborations that are causal to winning were not identified. One skilled in the art at the time of Qian's filing did not anticipate this problem.

To solve these problems, Campaigne includes a TEAM-MEMBER INTERACTION PROTOCOL (claim 38e) for the collective discovery of valued action sequences by plural reporters in a complex, fast-paced environment, and measuring and valuing system (claim 38f) to identify the critical few actions and collaborations. These novel features along with Campaigne's Signup Commitment feature (claim 38d), enable Campaigne's plural reporters to integrate their activity to simulate one omniscient information gatherer.

Campaigne Creates Unappreciated Advantage

Campaigne creates the possibility for large numbers of humans (REPORTERS) to self-organize on the internet, interactive TV or other data communications network to learn how to identify the critical few team-member actions that contribute to achieving a team goal. This achieves the unappreciated advantage of creating awareness in REPORTERS of how they can use this knowledge to be more effective team-members, themselves. Advanced research has found, "Self-organizing social dynamics has been an unappreciated positive force in our social development and has been significantly extended, as least in scope, by new technologies."p.404²

Although reliance by humans on group effort predates recorded history, high performance team effort is a rare occurrence. This is because as the literature states, "Individuality and self-preservation remain the rule, shared responsibility based on trusting others is the exception. A reluctance to take a risk and submit one's fate to the performance of a team, therefore, is almost

² Ibid p. 404.

inbred"³. The theme of teamwork emerges as, a) the teamwork of PLAYERS is measured, and in the process, REPORTERS learn how to identify and value teamwork, b) PLAYERS use the reported results to improve their own teamwork, c) REPORTERS cooperate to achieve complete ASPECT coverage of a CONTEST, d) REPORTERS collaborate with each other to learn effective reporting techniques and participate in refining the ASPECT Reporting Rules.

Prior Art Lacks Suggestion of Modification

Qian's human data gatherers are not central to its invention because they are not participants in the game. They are relegated to a background data entry role that is vaguely described. Since their organization and training is not described one can conclude that centralized training and centralized organizational control of the human data gatherers is anticipated by Qian. Qian does not teach the use of a large number of inexperienced observers as data gatherers. Sparks II teaches competition among game players and central control of player choices. Sparks II does not teach cooperation in any way. Consequently, Campaigne distinguishes over Qian and Sparks II by its decentralized training and decentralized organization of its reporters which are not anticipated by Qian or Sparks II. "One skilled in the art" at the time of Qian or Sparks II would not have discerned that the benefits of self-organization or self-training outweigh the potential cost burden of preventing reporting errors or lapses in complete reporting coverage which are anticipated and compensated for in Campaigne. At the time of Qian or Sparks II's

³ The Wisdom of Teams; creating the high-performance organization; Jon R. Katzenbach, Douglas K. Smith; Harvard Business School Press, 1993 Boston, MA.

filing, only those skilled in the very different art of Symbiotic Intelligence research in the field of Artificial Intelligence were aware of this insight as the prior reference from the Proceedings of the International Conference on Artificial Intelligence illustrates. Campaigne provides a method for guiding first time reporters on how to integrate their reporting activities to achieve the goal of self-organizing to collectively provide complete and consistent reporting coverage for a contest, when given only partial understanding of how they can achieve said goal. Campaigne includes re-enforcement learning for self-training of inexperienced reporters on reporting skills and a means to guide self-organization to collectively provide complete reporting coverage for a contest. Qian and Sparks II lack any suggestion that they should be modified to meet Campaigne's claims.

Success of reality basketball

"realitybasketball.com" has been introduced as the first implementation of this system and method.

"www.realitybasketball.com" shows the home page and an explanation of how to play the game. The following quote indicates the novelty and unobviousness (at the time of Qian) of Campaigne as evidenced by the television market need, "If the networks want that mass audience, they're going to have to bring an interactive element into the experience or they're just going to have smaller and aging audiences. Sports is a good place to start experimenting with realtime re-purposing of TV programming, Mr. Zey adds. Sporting events [are] one of the few things left that people need to experience in real time..."⁴

⁴ The Christian Science Monitor, "Missing: TV's male audience", p. 19 Friday November 7, 2003

No Convincing Reasoning for Rejection

The examiner has not presented a convincing line of reasoning as to why the claimed subject matter as a whole, including its differences over the prior art, would have been obvious.

The applicant requests consideration of claim 38 in light of the following court findings:

Must Suggest Desirability to Constitute Anticipation

It is well known that in order for any prior-art references themselves to be validly combined for use in a prior-art & 103 rejection, the references themselves (or some other prior art) must suggest that they be combined. E.g., as was stated in In re Sernaker, 217 U.S.P.Q. 1, 6 (C.A.F.C. 1983):

"[P]rior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings."

Examiner Must Provide Evidence of Obviousness

In line with these decisions, recently the Board stated in Ex parte Levengood, 28 U.S.P.Q.2d 1300 (P.T.O.B.A.&I. 1993):

"In order to establish a *prima facie* case of obviousness, it is necessary for the examiner to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art would have been led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention-- That which is within the capabilities of one skilled in the

art is not synonymous with obviousness--That one can reconstruct and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention--Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden of establishing a *prima facie* case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of ordinary skill in the art, that 'would lead' that individual 'to combine the relevant teachings of the references.'--Accordingly, an examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done."

The applicant requests reconsideration of Claim 38 and withdrawal of the objection of obviousness, on the basis that the new claim defines novel structure that produces new and unexpected results, and would not have been obvious to a person of ordinary skill in the art at the time Qian and Sparks II's inventions were made. Applicant submits that such claim is clearly patentable.

Applicant requests reconsideration of claims 39 - 49 and withdrawal of the objection of obviousness on the basis of the following assertions:

Revised dependent claims 39 - 43 and 45 - 49 and independent claim 44 incorporate all the subject matter of claim 38 and add additional subject matter which makes them a fortiori and independently patentable over Qian and Sparks II.

PART 2 - To be acted upon if Examining Supervisor rejects arguments in PART 1.

The rejection of Claims 26-37 under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter.

The Applicant requests reconsideration of claims 32-37 and withdrawal of this objection on the basis of the following assertions:

The Applicant has claimed the invention as a system (claims 32-37). The independent system claim 32 includes means plus function clauses on each limitation. It is well known that "means" can be regarded as either an action or as the hardware for performing the action. The hardware for performing the actions of claims is in the disclosure and is particularly pointed out in Applicant's Amendment B, P.16-25.

The Applicant also claimed the invention as a business process method (claims 26-31). It is common practice for the PTO to allow claims that do not explicitly cite the structure when accompanied by a system or apparatus claim showing means. The Examiner cited the reference USP number 4,722,526, Tovar which demonstrates this assertion.

Applicant asserts that the Examining Supervisor's rejection is unduly harsh.

The Applicant respectfully asserts that Amendment B should have been considered in the Examiner's response since the Amendment filed October 22, 2004 was titled "SUPPLEMENTAL RESPONSE TO DETAILED ACTION DATED 8/31/04", was filed on the advice of the Examining Supervisor and referred to Applicant's Amendment B. Furthermore, said claims were written under the guidance of the Examiner pursuant to MPEP 107.07(j) who was supposed by the Applicant to have negotiating power with regard to this application. Consequently, the Applicant claims the right to have an authorized person from the PTO re-write these claims to put them in form for allowance.

**The Rejection of Claims 26-37 under 35 U.S.C. 6103(a)
As being unpatentable over Qian et al. (6,616,529) in view
of Sparks, II (6,352,479).**

The Applicant request reconsideration of claims 26-37 in light of the REMARKS in Applicant's Amendment B Pp.25-34 which have not been considered by the Examiner. Applicant asserts that the ground for 103 rejection referencing Qian and Sparks II is not new and is overcome by prior arguments presented in Amendment B REMARKS.

Conclusion

The applicant has reviewed all the non-applied references and has determined that none shows Campaigne's invention or renders it obvious. For all of the above reasons, applicant submits that the specification, drawings, title, abstract and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore he submits that this application is now in condition for allowance, which action he respectfully solicits.

Conditional Request for Constructive Assistance

Applicant has amended the title, abstract and claims of this application so that they are proper, definite, and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, **applicant respectfully request the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 2173.02 and § 707.07(j) and the Examination Guidelines for Computer-Related Inventions which states, "Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved."**

Therefore it is submitted that patentable subject matter is clearly present. If the examiner agrees but does not feel that the present claims are technically adequate, **Applicant respectfully requests that the examiner write acceptable claims pursuant to MPEP 707.07(j).**

Phone Interview Binh-An Duc Nguyen and Applicant 05/10/2004

Teresa and Binh agree with the acceptability of clauses a) and b) in claim 26, as supported by the original specification. This overcomes the objection of new matter being added. The objection of the second Office Action, "claims directed to a different invention than originally claimed" was defined to center on the limitation of CONTEST referring only to the sports embodiment. Applicant pointed out the second embodiment shows that Commercial Environment is also a competition between sales organizations. Only one can win. This overcame the objection.

Applicant requested an informal review of a draft Amendment B and guidance per the examiner's manual "Office personnel Should indicate how rejections may be overcome and how problems may be resolved." Since Teresa is leaving the department, she and Binh agreed to an informal review by Binh and Jessica Harrison.

Binh-An Duc Nguyen and Applicant 05/20/2004

Applicant's draft Amendment B overcomes the original objections but since claims have changed, Binh will do another search of prior art. If Binh finds reference that precedes Applicant's invention then he will reject it finally. Applicant will have 3 months to respond to the objections to claims in Amendment B. If Applicant cannot overcome the new objections then Applicant can file a continuation application and modify the claims and re-submit without losing file date.

Binh stated that Applicant's Amendment B will be in the proper form with the following changes:

- 1) claim 27 - change "security" to "filter",
- 2) add means to the system claims.

Binh said that patent office will accept a faxed copy as official. It should be signed and should include a table of contents on the cover page for a) title and specification, b) amendment to claims, c) remarks and d) abstract. Applicant should incorporate interview in the remarks.

Xuan Thai and Applicant 10/21/2004

Xuan Thai (703)308-2064

Time and Date: 5:00 PM October 21, 2004

Subject: Supplemental Response to Detailed Action

Actionable Items:

1. Applicant should submit by fax a draft copy of Supplemental Response to Xuan (FAX (703) 746-5664) for review on 10/22/04. Xuan will read and respond to Applicant.
2. Supplemental Response will duplicate the prior Response to Detailed Action mail room date 9/3/2004 with the following exceptions:
 - a) Cover sheet will include

SUPPLEMENTAL RESPONSE TO DETAILED ACTION DATED 8/31/04

- 1. This response supercedes the previous Response to Detailed Action dated 9/3/2004.**

2. Please replace claims sheet from prior response (mail room date 9/3/2004), with the claims sheet from this Supplemental Response, for the purpose of correcting claim format.

b) The Claims Sheet will begin:

Claims:

1. - 25. (CANCEL)

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